

United States Senate  
WASHINGTON, DC 20510

December 20, 2021

The Honorable Miguel Cardona  
Secretary of Education  
U.S. Department of Education  
400 Maryland Avenue, S.W.  
Washington, D.C. 20202

Dear Secretary Cardona:

We write today to urge the Department of Education (“the Department”) to suspend administrative wage garnishment of student loan borrowers in default to the maximum extent permitted by law.

This October, we were pleased to learn that the Department is considering plans to ease some of the burdens that federal student loan debt collection practices place on the most financially vulnerable and economically distressed borrowers in default.<sup>1</sup> We also welcome recent reports that the Department has taken steps to terminate its contracts with the private sector collections agencies responsible for aggressively implementing those practices against struggling borrowers at their lowest points.<sup>2</sup> While the Department’s efforts to pause garnishment of wages during the COVID-19 pandemic are welcome developments, we are deeply concerned that the delayed implementation of this moratorium paired with the imminent resumption of student loan and interest payments on January 31, 2022, will result in long-term financial harm to borrowers who cannot afford further financial setbacks.<sup>3</sup>

Currently, over 9 million borrowers are in default on more than \$180 billion in federal student loan debt.<sup>4</sup> A disproportionate number of these borrowers are people of color, first-generation college students, veterans, parents, people with disabilities, and students who will not complete college.<sup>5</sup> Even before the devastating COVID-19 pandemic, these borrowers in default were subject to aggressive collection measures, some of which only the federal government can utilize to collect on student loans.<sup>6</sup> In addition to having to pay exorbitant fees, borrowers in default could expect to see their wages, tax refunds, and even Social Security checks confiscated.<sup>7</sup> Low-income families that had their Child Tax Credit (CTC) and

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<sup>1</sup> Stratford, Michael. "Inside The Biden Administration’s Plan to Restart Student Loan Payments." POLITICO. 18 Oct. 2021. Web. 29 Nov. 2021. <<https://www.politico.com/newsletters/weekly-education/2021/10/18/inside-the-biden-administrations-plan-to-restart-student-loan-payments-798263>>.

<sup>2</sup> Harrison, David. "Biden Administration to Cut Ties with Debt Collectors for Student Loans." The Wall Street Journal. 5 Nov. 2021. Web. 29 Nov. 2021. <<https://www.wsj.com/articles/biden-administration-to-sever-ties-with-student-loan-debt-collectors-11636079495>>.

<sup>3</sup> "Federal Student Aid." Studentaid.gov. 2021. Web. 29 Nov. 2021. <<https://studentaid.gov/manage-loans/default/collections>>; *see also*, Douglas-Gabriel, Danielle. "Looming End to Student Loan Payment Moratorium Raises Fears Among Defaulted Borrowers." The Washington Post. 23 Nov. 2021. Web. 29 Nov. 2021. <<https://www.washingtonpost.com/education/2020/11/23/defaulted-student-loans-collections-coronavirus-aid/>>.

<sup>4</sup> "Federal Student Aid." Studentaid.gov. 2021. Web. 29 Nov. 2021.

<[https://studentaid.gov/sites/default/files/fsawg/datacenter/library/PortfolioByLoanStatus.xls&sa=D&source=editors&ust=1633726071858000&usg=AOvVaw2NmDT\\_EdxMhBoa6LkQe5wA.](https://studentaid.gov/sites/default/files/fsawg/datacenter/library/PortfolioByLoanStatus.xls&sa=D&source=editors&ust=1633726071858000&usg=AOvVaw2NmDT_EdxMhBoa6LkQe5wA.)>.

<sup>5</sup> Campbell, Colleen. "The Forgotten Faces of Student Loan Defaults," Center for American Progress 16 Oct. 2018. Web. 29 Nov. 2021. <<https://americanprogress.org/article/forgotten-faces-student-loan-default/>>.

<sup>6</sup> Yu, Persis. "Pushed Into Poverty How Student Loan Collections Threaten the Financial Security of Older Americans." National Consumer Law Center, May 2017. Web. 29 Nov. 2021. <[https://www.nclc.org/images/pdf/student\\_loans/student-loan-collections-threaten-fin-sec.pdf](https://www.nclc.org/images/pdf/student_loans/student-loan-collections-threaten-fin-sec.pdf)>.

<sup>7</sup> Johnson Hess, Abigail. "Here’s What Happens—And What to Do—If You Can’t Pay Your Federal Student Loans." CNBC. 31 May 2021.

Earned Income Tax Credit (EITC) refund checks seized by the federal government were often left in worse situations with limited access to jobs and housing, and fewer resources to cover basic necessities.<sup>8</sup>

During the early months of the pandemic, hundreds of thousands of student loan borrowers who were wrongfully subject to wage garnishment when the Administration failed to fully comply with the CARES Act (P.L. 116-136), which paused debt collection on all federally-held student loans, filed lawsuits against Secretary DeVos and won.<sup>9</sup> As a result, over the course of 2020 and 2021, the Department returned hundreds of millions of dollars in unlawfully seized wages to borrowers.<sup>10</sup> Although the Department has since come in to compliance with the debt collection freeze, the Department's initial inability to stop wage garnishment exposed the deep and risky inadequacies of the current debt collection system, which uses a slow and antiquated paper-based system that relies on employers to respond to written requests from the government to terminate wage garnishments.<sup>11</sup> Further, the Department still lacks accurate contact information for tens of thousands of borrowers previously subject to wage garnishment.<sup>12</sup> Prematurely resuming federal debt collection efforts against these borrowers in 2022 would be disastrous. The Department's current intention to resume these collection efforts in a couple of months, as cash-strapped borrowers struggle to recover from a still-ongoing pandemic, will likely result in significant financial harm.<sup>13,14</sup>

As the Biden Administration works to address issues in student lending, we ask the Department to automatically remove eligible borrowers from default status, as many of us have previously called for.<sup>15</sup> Furthermore, ***we ask that you continue to suspend administrative wage garnishment and other forced collections until of the end of the COVID-19 national public health emergency.***

Additionally, in order to help protect the millions of vulnerable borrowers who simply cannot afford to begin repayment of America's massive student loan debt burden, we urge the Department to conduct an analysis of the disparate effects of these practices on Black, Latino and Indigenous people with student debt as part of any comprehensive review of the student loan debt collection system.

Upon conclusion of the review, we ask for the Department to establish new safeguards for borrowers that ensure that the Secretary will:

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Web. 29 Nov. 2021. <<https://www.cnbc.com/2021/05/31/what-happens-when-you-do-not-pay-your-federal-student-loans.html>>.

<sup>8</sup> Yu, Persis "Voices of Despair: How Seizing the EITC is Leaving Student Loan Borrowers Homeless and Hopeless During a Pandemic," 2021. *Nclc.Org*. <[https://www.nclc.org/images/pdf/student\\_loans/voices-of-despair-seizing-eitc-in-pandemic.pdf](https://www.nclc.org/images/pdf/student_loans/voices-of-despair-seizing-eitc-in-pandemic.pdf)>

<sup>9</sup> "Administrative Wage Garnishment Complaint Against Department of Education Secretary Betsy DeVos - Student Borrower Protection Center." Student Borrower Protection Center. 2021. Web. 29 Nov. 2021. <<https://protectborrowers.org/suing-betsy-devos-to-stop-illegal-wage-garnishments/>>; "Education Department Admits Seizing One Million Borrowers' Tax Refunds - Democracy Forward." Democracy Forward. 1 June 2021. Web. 29 Nov. 2021. <<https://democracyforward.org/press/ed-dept-admits-seizing-one-million-borrowers-tax-refunds-treasury-offset/>>.

<sup>10</sup> "Lawsuit Against DeVos Ends; Fight for Defaulted Borrowers Continues - Student Loan Borrowers Assistance." Student Loan Borrowers Assistance. 22 March 2021. Web. 29 Nov. 2021. <<https://www.studentloanborrowerassistance.org/lawsuit-against-devos-ends-fight-for-defaulted-borrowers-continues/>>.

<sup>11</sup> United States District Court, District of Columbia. Elizabeth Barber, et al v. Elisabeth DeVos. 2020, pp. 1-11. <https://storage.courtlistener.com/recap/gov.uscourts.dcd.217544/gov.uscourts.dcd.217544.20.1.pdf>.

<sup>12</sup> United States District Court, District of Columbia. Elizabeth Barber, et al v. Elisabeth DeVos. 2020, pp. 1-4. <https://storage.courtlistener.com/recap/gov.uscourts.dcd.217544/gov.uscourts.dcd.217544.29.0.pdf>.

<sup>13</sup> "U.S. Department of Education Approves Washington's Plan for Use of American Rescue Plan Funds to Support K-12 Schools and Students, Distributes Remaining \$618 Million To State." U.S. Department of Education. 6 Aug. 2021. Web. 29 Nov. 2021. <<https://www.ed.gov/news/press-releases/biden-administration-extends-student-loan-pause-until-january-31-2022>>.

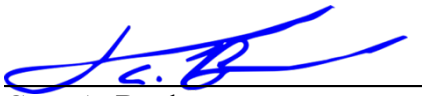
<sup>14</sup> Johnson Hess, Abigail. "The Pause on Federal Student Loan Payments Ends Sept 30—Here's How to Prepare." CNBC. 23 April 2021. Web. 29 Nov. 2021. <<https://www.cnbc.com/2021/04/23/when-federal-student-loan-payments-pause-ends-how-to-prepare.html>>.

<sup>15</sup> "Senator Warren Urges Department of Education To Remove Millions Of Student Loan Borrowers From Default | U.S. Senator Elizabeth Warren Of Massachusetts". 2021. *Warren.Senate.Gov*. <https://www.warren.senate.gov/newsroom/press-releases/senator-warren-urges-department-of-education-to-remove-millions-of-student-loan-borrowers-from-default>.

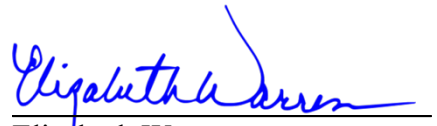
- Pay the borrower back what they paid, with interest, if an individual's wages are improperly garnished;
- Verify that all information necessary to implement wage garnishment is accurate with respect to each individual employee subject to garnishment; and
- Forgive debts from borrowers who have been in default for years and develop a permanent policy that incorporates the Department's settlement and compromise authority into their collection practices.

Reforming this harmful process would play a critical role in our nation's recovery efforts and would protect the most financially vulnerable student loan borrowers. We appreciate your prompt attention to our urgent request.

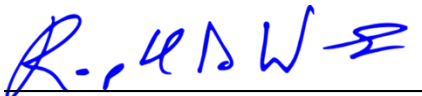
Sincerely,



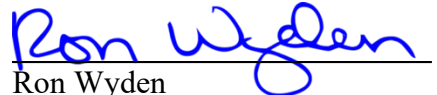
Cory A. Booker  
United States Senator



Elizabeth Warren  
United States Senator



Raphael G. Warnock  
United States Senator



Ron Wyden  
United States Senator



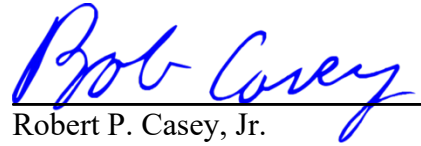
Robert Menendez  
United States Senator



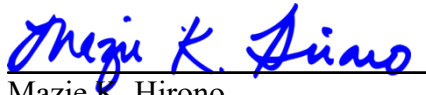
Chris Van Hollen  
United States Senator



Tammy Duckworth  
United States Senator



Robert P. Casey, Jr.  
United States Senator



Mazie Hirono  
United States Senator



Sherrod Brown  
United States Senator